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The Rise (and Fall?) of Defamation of Religions. By Lorenz Langer

In the autumn of 2009, the controversy over the Muhammad cartoons¹ reached Yale University. The decision by Yale University Press to remove not only the reproduction of the Danish drawings, but also *any* depiction of the prophet from an upcoming book on the cartoons² drew angry comments from several quarters.³ Defenders of free speech clashed with those demanding consideration for Muslim feelings, as well as those worried about a potentially violent response to the cartoons.⁴

This latest episode in the cartoon saga shows that the balance between freedom of expression and the protection of religious sensitivities is still elusive. Whether reprinted by the Press or not, the cartoons are now in the public domain, where they will provide a ready means to cause offense for decades to come. Adherents of a religion might be more hurt by insults to their faith than by (penalized) libel of their own person. Yet making religions (or their interpreters) the arbiter over what may be said would impose considerable constraints on public discourse.

Discussion about the limits of speech can be framed in moral, religious, legal, or political terms, or a combination thereof.⁵ When the Muslim world took offence at Salman Rushdie's novel *The Satanic Verses*, the response was almost exclusively religious, with Ayatollah Ruhollah Khomeini's *fatwa* as the sad apogee.⁶ The Danish cartoons sparked violence,⁷ but also court proceedings in national, regional, and international fora. The reaction of Muslim governments was couched in legal terms instead of religious condemnation: from the outset, elites in Muslim states relied on international law and human rights norms to denounce defamation of religions as a violation of human dignity.⁸ They also insisted that the international legal framework addressing the balance between freedom of expression and protection of religion was deficient, claiming that it did not sufficiently

1. The cartoons first appeared in Flemming Rose, *Muhammeds Ansigt* [The Face of Muhammed], JYLLANDS-POSTEN, Sept. 30, 2005, at 3 (Den.).

2. JYTTE KLAUSEN, THE CARTOONS THAT SHOOK THE WORLD (2009).

3. Patricia Cohen, *PEN Makes Appeal to Yale Press*, N.Y. TIMES, Sept. 12, 2009, at C2; Mona Eltahawy, *Yale's Misguided Retreat*, WASH. POST, Aug. 29, 2009, at A15.

4. See Marcia Inhorn, *A Major Form of Blasphemy*, YALE ALUMNI MAG., Sept. 9, 2009, available at http://www.yalealumnimagazine.com/issues/2009_11/yup_inhorn057.html; John Negroponte, *A Risk of "Violence of an Unpredictable Nature,"* YALE ALUMNI MAG., Sept. 9, 2009, <http://www.yalealumnimagazine.com/extras/yup/negroponte149.html>; Michael Steinberg, *Light and Truth and a Free Press*, YALE ALUMNI MAG., Sept. 9, 2009, available at <http://www.yalealumnimagazine.com/extras/yup/steinberg149.html>.

5. The lines between these different types of discussions can often be difficult to draw. Swearing, for instance, is morally frowned upon, but can also lead to religious sanctions, see *Exodus* 20:7; *Leviticus* 20:9, 24:10-16, or legal sanctions, see *FCC v. Pacifica Found.*, 438 U.S. 726 (1978). The Sedition Act used legal means for political ends. Act of July 14, 1798, ch. 74, 1 Stat. 596.

6. For an overview, see THE RUSHDIE FILE (Lisa Appignanesi & Sara Maitland eds., 1990). Legal proceedings under blasphemy laws did take place in the United Kingdom, see *R v. Chief Metropolitan Stipendiary Magistrate, Ex parte Choudhury*, [1991] 1 Q.B. 429, with an unsuccessful appeal to the European Commission of Human Rights, see *Choudhury v. United Kingdom*, App. No. 17439/90, 12 HUM. RTS. L.J. 172, 172-73 (1991).

7. For a detailed account, see KLAUSEN, *supra* note 2.

8. See Letter from Ahmed Aboul Gheit, Minister of Foreign Affairs of Egypt, to the U.N. Sec'y-Gen., U.N. Doc. A/60/566 (Nov. 23, 2005).

safeguard religious feelings, that its implementation was ridden with double standards, and that it therefore needed to be complemented with provisions banning defamation of religions outright. This view is consistent with the abortive attempts by Muslim associations to obtain a ruling on the cartoons in an international forum; however, both the European Court of Human Rights and the Committee on Human Rights dismissed the respective applications on procedural grounds.⁹

This Recent Development retraces the demands for protecting religions from offense and the attempts to initiate the drafting of new legal instruments to ensure such protection. While several international human rights conventions contain provisions that address freedom of religion, there is no instrument that exclusively focuses on religion or its protection. Efforts to draft a convention against religious intolerance date back to the 1960s, but resulted only in the nonbinding 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.¹⁰ The Declaration was directed against discrimination of individuals by “any State, institution, group of persons or person on the grounds of religion or belief.”¹¹ In contrast, the broader concept of “defamation of religions” raised by the cartoons controversy encompasses the creed itself. This concept made its first appearance before the cartoons, when Pakistan, on behalf of the Organization of the Islamic Conference (OIC), introduced a draft resolution on combating “[d]efamation of Islam” in the U.N. Human Rights Commission in 1999.¹² The resolution was to counter “new manifestations of intolerance and misunderstanding, not to say hatred, of Islam and Muslims,” and to oppose portrayals of Islam as a religion hostile to human rights.¹³

Suggestions by some Commission members to broaden the scope to other religions were first resisted by an insistence that “the problem faced by Islam was of a very special nature.”¹⁴ After protracted haggling, however, Pakistan introduced a revised draft resolution which encompassed religions in general while still emphasizing the particularly vulnerable situation of Islam. This second draft was adopted by the Commission without a vote.¹⁵ The resolution’s operative part expressed concern about “negative stereotyping of religions”¹⁶ and about “any role in which the print, audio-visual or electronic media or any other means is used to incite acts of violence, xenophobia or

9. Human Rights Comm., Decision: Communication No. 1487/2006, U.N. Doc. CCPR/C/92/D/1487/2006 (Apr. 18, 2008); Ben El Mahi v. Denmark, App. No. 5853/06 (Eur. Ct. H.R. Dec. 11, 2006), <http://www.echr.coe.int/echr>.

10. G.A. Res. 36/55, U.N. Doc. A/RES/36/55 (Nov. 5, 1981).

11. *Id.* art. 2, para. 1.

12. Comm’n on Human Rights, *Draft Resolution on Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination*, U.N. Doc. E/CN.4/1999/L.40 (Apr. 20, 1999). Pakistan had been repeatedly criticized for its own blasphemy laws. *See, e.g.*, Comm’n on Human Rights, Sub-comm’n on Prevention of Discrimination and Protection of Minorities, 50th Sess., 23d mtg. ¶¶ 45-48, U.N. Doc. E/CN.4/Sub.2/1998/SR.23 (Aug. 21, 1998).

13. Comm’n on Human Rights, 55th Sess., 61st mtg. ¶ 1, U.N. Doc. E/CN.4/1999/SR.61 (Oct. 19, 1999).

14. *Id.* ¶ 7.

15. Comm’n on Human Rights Res. 1999/82, 55th Sess., 62d mtg. U.N. Doc. E/CN.4/Res/1999/82 (Apr. 30, 1999).

16. *Id.* art. 1.

related intolerance and discrimination towards Islam and any other religion.”¹⁷ Under this formulation, the objects of protection are Islam and other religions, rather than individual adherents of religions. In international law, discrimination on racial, ethnic, or religious grounds, however, is generally understood to be directed against persons or groups of persons.¹⁸ The resolution did not elaborate on how the same concept could be applied to religions, beliefs, or ideologies, or who would decide when a religion had been defamed.

The Commission adopted a similar resolution by consensus in 2000, after several draft resolutions and amendments, and protracted discussion¹⁹ with the European Union urging the sponsors not to raise the issue again in the Commission.²⁰ Unperturbed, Pakistan introduced another draft resolution in 2001.²¹ This time, however, consensus proved elusive. The Belgian representative, speaking on behalf of the EU, criticized the OIC for protecting religions rather than the rights of individuals.²² Nevertheless, the resolution was adopted.²³ The Commission also voted on resolutions on defamation of religions in 2002,²⁴ 2003,²⁵ 2004,²⁶ and 2005.²⁷

Thus, defamation of religions and Islamophobia figured prominently on the international agenda of Muslim states even prior to the publication of the cartoons in September 2005. At that stage, no claims for additional legal instruments were being made, and the issue was receiving a muted institutional response within the United Nations²⁸ and little news coverage. Once the cartoons were published, the campaign against defamation of religions and Islamophobia garnered greater attention and was raised in

17. *Id.* art. 3.

18. International Convention on the Elimination of All Forms of Racial Discrimination art. 1, para. 1, *entered into force* Jan. 4, 1969, 660 U.N.T.S. 212; Comm. on the Elimination of Racial Discrimination, *General Recommendation Concerning Article 1 of the Convention*, ¶ 1, U.N. Doc. A/54/18(Supp.), Annex V (Aug. 27, 1999).

19. Comm’n on Human Rights, 56th Sess., 67th mtg. ¶¶ 72-73, U.N. Doc. E/CN.4/2000/SR.67 (Dec. 1, 2000) [hereinafter Record of the 67th Meeting]; Comm’n on Human Rights, Draft Resolution on Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination, 56th Sess., U.N. Doc. E/CN.4/2000/L.18 (Apr. 10, 2000); Comm’n on Human Rights, Draft Resolution on Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination, 56th Sess., U.N. Doc. E/CN.4/2000/L.96 (Apr. 20, 2000); Comm’n on Human Rights, Draft Resolution on Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination, 56th Sess., U.N. Doc. E/CN.4/2000/L.6 (Apr. 5, 2000).

20. Record of the 67th Meeting, *supra* note 19, ¶ 75.

21. Comm’n on Human Rights, *Draft Resolution on Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination*, U.N. Doc. E/CN.4/2001/L.7 (Apr. 11, 2001).

22. Comm’n on Human Rights, 57th Sess., 61st mtg. ¶¶ 4-6, U.N. Doc. E/CN.4/2001/SR.61 (Dec. 4, 2001).

23. All European countries on the Commission as well as Canada, Japan, and the United States voted against. *Id.* ¶ 10.

24. Comm’n on Human Rights Res. 2002/9, U.N. Doc. E/CN.4/Res/2002/9 (Apr. 15, 2002).

25. Comm’n on Human Rights Res. 2003/4, U.N. Doc. E/CN.4/Res/2003/4 (Apr. 14, 2003).

26. Comm’n on Human Rights Res. 2004/6, U.N. Doc. E/CN.4/Res./2004/6 (Apr. 8, 2004).

27. Comm’n on Human Rights Res. 2005/3, U.N. Doc. E/CN.4/Res/2005/3 (Apr. 12, 2005).

28. *See, e.g.,* U.N. Econ. & Soc. Council [ECOSOC], Comm’n on Human Rights, *Civil and Political Rights, Including Religious Intolerance*, U.N. Doc. E/CN.4/2001/63 (Feb. 13, 2001) (*prepared by Abdelfattah Amor*). Special Rapporteur on Racism Doudou Diène had some sympathy for the claims of defamation, but concluded that a stricter implementation of *existing* norms was needed. ECOSOC, Comm’n on Human Rights, *Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination*, at 2, U.N. Doc. E/CN.4/2003/23 (Jan. 3, 2003).

additional fora. Yemen introduced a resolution condemning defamation of religions in the U.N. General Assembly, which was adopted in a vote split along the trenches established by the previous votes in the Commission on Human Rights.²⁹ The OIC held an Extraordinary Islamic Summit session in Mecca in December 2005 to address the defamation campaigns against Muslims and Islam itself. The assembled head of states expressed “concern at rising hatred against Islam and Muslims and condemned the recent incident of desecration of the image of the Holy Prophet Mohammad (PBUH) in the media of certain countries” and emphasized “the inapplicability of using the freedom of expression as a pretext to defame religions.”³⁰

Over the next four years, defamation of religion was a constant topic at international and regional meetings. The newly established Human Rights Council decided at its first session to request reports on defamation of religions by the Special Rapporteur on Freedom of Religion, by the Special Rapporteur on Contemporary Forms of Racism, and by the High Commissioner for Human Rights.³¹ The reports were to focus on the implications of defamation under Article 20(2) of the International Covenant on Civil and Political Rights, which requires states party to prohibit by law any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence.³² The reports, however, were cautious about subsuming defamation under Article 20(2).³³

Representatives of Muslim countries therefore felt justified in insisting on stronger remedies, suggesting that the Human Rights Council draft “a legally binding instrument to combat defamation of religions and uphold respect for religions and beliefs.”³⁴ The OIC Summit conference in 2008 declared all acts “which defame Islam as heinous acts that require punishment.”³⁵ The OIC authorized its Secretary-General to constitute a group of experts to draft “a legally-binding international instrument to promote respect for all religions and cultural values and prevent discrimination and instigation of hatred vis-à-vis the followers of any religion.”³⁶

At the same time, the OIC continued to press the issue of defamation at the United Nations. Both the General Assembly and the Human Rights

29. G.A. Res. 60/150, 60th Sess., 64th mtg., U.N. Doc. A/RES/60/150 (Dec. 16, 2005).

30. Organization of the Islamic Conference [OIC], Final Communiqué of the Third Extraordinary Session of the Islamic Summit Conference, at II (Dec. 7-8, 2005), *available at* <http://www.oic-oci.org/ex-summit/english/fc-exsumm-en.htm>.

31. Human Rights Council Dec. 1/107, 24th mtg., U.N. Doc. A/DEC/1/107 (Nov. 13, 2006).

32. International Covenant on Civil and Political Rights art. 20(2), *entered into force* Mar. 23, 1976, 999 U.N.T.S. 171.

33. Human Rights Council, *Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled “Human Rights Council,”* ¶ 47, U.N. Doc. A/HRC/2/3 (Sept. 20, 2006) (*prepared by Asma Jahangir & Doudou Diène*); High Comm’r for Human Rights, Human Rights Council, *Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled “Human Rights Council,”* ¶¶ 19, 22, U.N. Doc. A/HRC/2/6 (Sept. 20, 2006).

34. Human Rights Council, 2d Sess., 9th mtg. ¶¶ 24, 31, U.N. Doc. A/HRC/2/SR.9 (Oct. 25, 2006).

35. OIC, *Final Communiqué of the Eleventh Session of the Islamic Summit Conference*, ¶ 176, OIC Doc. OIC/SUMMIT-11/2008/FC/Final (Mar. 13-14, 2008).

36. *Id.* ¶ 177.

Council passed resolutions in 2007 and 2008.³⁷ The OIC and the Groups of Arab and African States also amended the resolution extending the mandate of the Special Rapporteur on Freedom of Expression to cover “instances in which the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination.”³⁸ The concept of defamation of religions, now seemingly established on the international level, figured prominently on the agenda of NGOs³⁹ and was reported by the media.⁴⁰

Proponents of defamation hoped to further entrench and codify the concept at the U.N. Durban Review Conference scheduled for 2009.⁴¹ The 2001 World Conference against Racism in Durban had not addressed the issue of religious defamation, but the Durban Programme of Action had recommended preparing complementary international standards to strengthen international instruments against racism, racial discrimination, xenophobia, and related intolerance.⁴² To this end, the Council convened a group of experts to analyze the gaps in existing international instruments and to deliberate on the adoption of additional protocols or new conventions.⁴³ An ad hoc committee of Council members was then to implement their findings.⁴⁴ When the experts concluded that current legal instruments sufficiently covered the combination of religious intolerance and racial prejudices,⁴⁵ they were chastised by Muslim member states for disregarding their mandate.⁴⁶

This was arguably the high point of the push for international defamation law. In March 2009, an extensive version of the obligatory resolution was passed by the Council.⁴⁷ Western countries feared and Muslim

37. G.A. Res. 62/154, U.N. Doc. A/RES/62/154 (Dec. 18, 2007); G.A. Res. 63/171, U.N. Doc. A/RES/63/171 (Dec. 18, 2008); Human Rights Council Res. 7/19, 40th mtg., U.N. Doc. A/HRC/Res/7/19 (Mar. 28, 2008); Human Rights Council Res. 4/9, 31st mtg., U.N. Doc. A/HRC/Res/4/9 (Mar. 30, 2007).

38. Human Rights Council Res. 7/36, art. 4(d), 42d mtg., U.N. Doc. A/HRC/RES/7/36 (Mar. 28, 2008).

39. Human Rights Council, *Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance, Follow-Up and Implementation of the Durban Declaration and Programme of Action*, U.N. Doc. A/HRC/10/NGO/69 (Feb. 26, 2009) (joint written statement submitted by Freedom House & the Beckett Fund for Religious Liberty); Human Rights Council, *Promotional Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development*, U.N. Doc. A/HRC/9/NGO/15 (Aug. 29, 2008) (joint written statement submitted by ARTICLE 19 (The International Centre Against Censorship) & the Cairo Institute for Human Rights Studies).

40. See, e.g., *Bad Counsel*, ECONOMIST, Apr. 4, 2007, at 58-59 (referring to the 2007 defamation resolution as “new”); *Zwischen Meinungsfreiheit und Hassreden: Der UN Menschenrechtsrat debattiert über Religion* [Between Freedom of Expression and Hate Speech: The UN Human Rights Council Debates Religion], NEUE ZÜRCHER ZEITUNG, Sept. 28, 2006, at 7.

41. G.A. Res. 61/149, U.N. Doc. A/RES/61/149 (Dec. 19, 2006).

42. World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban, S. Afr., Aug. 31-Sept. 8, 2001, *Report*, at 71, ¶ 199, U.N. Doc. A/CONF.189/12 (2001).

43. Human Rights Council Res. 1/5, ¶ 2, 24th mtg., U.N. Doc. A/HRC/RES/1/5 (June 30, 2006).

44. Human Rights Council Dec. 3/103, 3d mtg., U.N. Doc. A/HRC/DEC/3/103 (Apr. 23, 2007).

45. Human Rights Council, Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, *Complementary International Standards*, ¶ 130, U.N. Doc. A/HRC/4/WG.3/6 (Aug. 27, 2007).

46. Human Rights Council, *Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination*, ¶¶ 23, 41, 42, U.N. Doc. A/HRC/10/88 (Feb. 24, 2009).

47. Human Rights Council Res. 10/22, 10th Sess., U.N. Doc. A/HRC/RES/10/22 (Mar. 26, 2009).

countries hoped that the Durban Review Conference would see a decade of promoting religious defamation rewarded by the initiation of codification.⁴⁸ Yet “defamation of religions” did not feature at all in the outcome document of the Review Conference, despite Muslim states’ insistence on the importance and validity of the concept.⁴⁹ Instead, the document underscored the paramount importance of freedom of expression.⁵⁰ At the Review Conference, the Special Rapporteur on Freedom of Expression had stated that it was “crucial” to remove defamation from the final outcome document.⁵¹ Eventually, the OIC accommodated the Western states’ insistence on omitting defamation.⁵² Clearly, this came as a surprise.⁵³ As late as October 2008, the proposals for the outcome document of the Review Conference had still made numerous references to defamation and demanded new normative standards.⁵⁴

For some time after the Review Conference, defamation all but vanished from the international agenda. The 11th and 12th sessions of the Human Rights Council did not pass resolutions on defamation, but instead adopted a compromise resolution on freedom of expression co-sponsored by Egypt and the United States.⁵⁵ The end of defamation of religion seemed to be imminent.⁵⁶ While the OIC still pushed to draw up new legal instruments,⁵⁷ the momentum on the international level seemed lost. Even if the OIC itself adopted a new legal instrument, the effect would be limited since the organization primarily takes issue with the treatment of Muslims in non-Muslim states. It would seem that the representatives of OIC member states were somewhat flushed with their influence in U.N. bodies. In the flood of resolutions they overlooked that U.N. rapporteurs and experts consistently argued against the need for new legal standards.

It is too soon to say whether this indicates the waning of defamation.

48. Neil MacFarquahr, *Concerns Keep U.S. from Talks on Racism*, N.Y. TIMES, Apr. 20, 2009, at A7.

49. Press Release, Durban Review Conference, Afternoon, at 2, U.N. Doc. RC/09/3 Rev.1 (Apr. 20, 2009), http://www.un.org/durbanreview2009/coverage/pdf/20.04.09_meeting_summary_pm_rev1_en.pdf [hereinafter Durban Conference April 20 Afternoon]; Press Release, Durban Review Conference, Morning, at 2, 6, U.N. Doc. RC/09/4 (Apr. 21, 2009), http://www.un.org/durbanreview2009/coverage/pdf/21.04.09_meeting_summary_am_en.pdf.

50. Durban Review Conference, Geneva, Switz., Apr. 20-24, 2009, *Report*, at 6-7, ¶¶ 54, 58, U.N. Doc. A/CONF.211/8 (2009).

51. Press Release, Durban Review Conference, Afternoon, at 5, U.N. Doc. RC/09/11 Rev.1 (Apr. 23, 2009), http://www.un.org/durbanreview2009/coverage/pdf/23.04.09_meeting_summary_pm_rev1_en.pdf.

52. Durban Conference April 20 Afternoon, *supra* note 49, at 3, 9; Closing Statement of the High Commissioner for Human Rights (Apr. 24, 2009), <http://www.un.org/durbanreview2009/stmt05-01-09.shtml>.

53. See, e.g., *Avoiding the Worst: UN Conference on Racism*, ECONOMIST, Apr. 25, 2009, at 62-63.

54. Preparatory Comm. for Durban Review Conference, *Implementation of the Mandate of the Working Group*, ¶ 46, U.N. Doc. A/CONF.211/PC/WG.2/CRP.1 Annex (Oct. 27, 2008).

55. Human Rights Council Res. 12/16, 12th Sess., U.N. Doc. A/HRC/RES/12/16 (Oct. 2, 2009).

56. ARTICLE 19, UN Human Rights Council: Beginning of the End for Defamation of Religion? (Sept. 23, 2009), <http://www.article19.org/pdfs/press/un-human-rights-council-beginning-of-the-end-for-defamation-of-religions-.pdf>.

57. The working group to that end is still not established. OIC, Council of Foreign Ministers, *Combating Islamophobia and Eliminating Hatred and Prejudice Against Islam*, ¶ 10, Res. 34/36-POL (May 23-25, 2009).

The OIC might well decide that the domestic benefits of passing annual resolutions in the Human Rights Council outweigh the cost of antagonizing the Western states. Muslim members of the Ad Hoc Committee continue to insist that new legal instruments are indispensable.⁵⁸ New efforts are underway to pass another resolution on defamation in the General Assembly in 2010 with a view to drafting a binding instrument.⁵⁹ Suddenly, defamation of religions seems to be well and alive again.

But repetitive resolutions without result would underscore that nothing beyond grandstanding can be achieved. Even if a new international instrument or additional protocol were eventually to emerge at the United Nations, it is unlikely that Western governments would feel compelled to become a party to it. While indicating that they were not unsympathetic to complaints of discrimination against Muslims, European regional institutions have also made it clear that they do not see the prohibition of defamation of religions as a viable solution to such grievances.⁶⁰

Defamation of religions will be with us for some time to come. But its proponents have yet to provide a convincing rationale why—and especially how—religions rather than individuals should be protected from insult or discrimination. The mere fact that some Muslim countries impose severe penalties for blasphemy cannot warrant a ban on the international level.⁶¹ Nor is it clear who would authoritatively decide when a transgression has occurred; courts would be ill-equipped to adjudicate religious commands. The emancipation of the public sphere from control by religious authorities is too important an achievement to be jeopardized by a vague, novel concept.

58. Human Rights Council, Ad Hoc Comm. on the Elaboration of Complementary Standards, *Outcome Referred to in Paragraph 2(D) of the Road Map on the Elaboration of Complementary Standards*, U.N. Doc. A/HRC/AC.1/2/2 (Aug. 26, 2009).

59. Frank Jordans, *Islamic Nations Pressing UN Panel for Treaty That Would Ban Blasphemy*, ASSOCIATED PRESS, Nov. 20, 2009, at 7.

60. See Eur. Parl. Ass., Recommendation 1805, *Blasphemy, Religious Insults and Hate Speech Against Persons on Grounds of Their Religions* (2007), <http://assembly.coe.int/main.asp?link=/Documents/AdoptedText/ta07/EREC1805.htm>; see also European Comm'n for Democracy Through Law, *Report on the Relationship Between Freedom of Expression and Freedom of Religion*, ¶ 64, Doc. No. CDL-AD(2008)026 (Oct. 23, 2008).

61. See Inhorn, *supra* note 4.